

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ANNALIESE G. QUILLEN,

Plaintiff,

v.

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

Case No. C20-1542 RAJ

**PROPOSED ORDER GRANTING  
MOTION FOR ATTORNEY  
FEES**

This matter is before the Court on Plaintiff's motion for attorney fees in the amount of \$2,685.98, pursuant to 42 U.S.C. § 406(b). Dkt. 23. Defendant "neither supports nor opposes" the fee amount requested, but asks the Court to "distinguish between the full amount determined as possible under section 406(b) and the net amount awarded for payment purpose." *See* Dkt. 24 at 2–4.

The Court may award reasonable attorney fees to a successful social security claimant's attorney pursuant to 42 U.S.C. § 406(b). *See Gisbrecht v. Barnhart*, 535 U.S. 789, 792 (2002). The amount of the award cannot exceed 25 percent of a claimant's past-due benefits. 42 U.S.C. § 406(b)(1)(A). If the Court awarded fees under the Equal Access to Justice Act ("EAJA"), the claimant's attorney must refund to the claimant the

1 amount of the smaller fee. *See Gisbrecht*, 535 U.S. at 796. The attorney fee award under  
2 42 U.S.C. § 406(b) is paid by the claimant out of the past-due benefits award, not by the  
3 losing party, and the claimant’s attorney bears the burden of demonstrating the requested  
4 fee is reasonable. *See id.* at 807.

5       When a contingency fee agreement applies, the Court will first look to the  
6 agreement to determine whether the claimant’s attorney’s request is reasonable. *Id.* at  
7 808; *see also Crawford v. Astrue*, 586 F.3d 1142, 1148 (9th Cir. 2009) (en banc). If the  
8 fee request is consistent with the fee arrangement and is within the statutory maximum of  
9 25 percent of past-due benefits, the Court then conducts an “independent check” to  
10 determine whether the requested fee is reasonable “based on the character of the  
11 representation and the results the representative achieved.” *See Gisbrecht*, 535 U.S. at  
12 807–08. “A fee resulting from a contingent-fee agreement is unreasonable, and thus  
13 subject to reduction by the court, if the attorney provided substandard representation or  
14 engaged in dilatory conduct in order to increase the accrued amount of past-due benefits,  
15 or if the ‘benefits are large in comparison to the amount of time counsel spent on the  
16 case’” such that the requested fee “would constitute a windfall.” *Crawford*, 586 F.3d at  
17 1148, 1151 (*quoting Gisbrecht*, 535 U.S. at 808).

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19       Plaintiff’s attorney requests \$2,685.98 in attorney fees. Dkt. 23 at 1. Plaintiff  
20 signed a fee agreement agreeing to pay her attorney a fee equal to “25% of all past-due  
21 benefits.” *See* Dkt. 23-3 at 1. This matches the percentage cap under the statute, and this  
22 Court has previously found this to be “a typical fee arrangement in social security  
23

1 appeals.” *See Brazile v. Comm’r of Soc. Sec.*, No. C18-5914, 2022 WL 503779, at \*3  
2 (W.D. Wash. Feb. 18, 2022). There has been no showing that Plaintiff’s counsel  
3 represented Plaintiff in a substandard way, acted in a manner that caused undue delay, or  
4 any other effort or lack of effort that would be out of proportion to Plaintiff’s award.  
5 *Grisbrecht*, 535 U.S. at 808. There is no evidence of an excessive delay by Plaintiff’s  
6 attorney or that a windfall will result from the requested fee. Further, Defendant does not  
7 oppose the amount requested. *See* Dkt. 24 at 2.

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9 Plaintiff’s past due benefits total \$29,327.90. Dkt. 23-4 at 3. Twenty-five percent  
10 of this, \$7,331.98, was withheld by the Social Security Administration to pay Plaintiff’s  
11 “representative for his or her work on [Plaintiff’s] case.” *See id.* at 3–4. Plaintiff’s  
12 attorney was previously awarded \$4,646 under the EAJA. *See* Dkt. 20. A refund of the  
13 EAJA award to Plaintiff leaves \$2,685.98, the amount Plaintiff’s attorney is requesting  
14 (\$7,331.98 - \$4,646). *See* Dkt. 23 at 11; *Gisbrecht*, 535 U.S. at 796.

15 After a review of the relevant record, the Court grants Plaintiff’s motion, and  
16 authorizes an attorney’s fee award of \$2,685.98, minus any applicable processing fees as  
17 allowed by statute, to Plaintiff’s attorney, Debra J. Venhaus, at P.O. Box 12488, Mill  
18 Creek, WA 98082, in accordance with 42 U.S.C § 406(b).

19 DATED this 20th of November, 2023.  
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23 The Honorable Richard A. Jones  
United States District Judge